

ORDINANCE NO. 2005-11

**AN ORDINANCE OF THE TOWNSHIP OF PLUMSTED,
COUNTY OF OCEAN, STATE OF NEW JERSEY
CREATING AND ESTABLISHING CHAPTER 47A OF
GENERAL ORDINANCES OF THE TOWNSHIP OF PLUMSTED
ENTITLED "PROFESSIONAL SERVICES ENTITIES"**

BE IT ORDAINED by the Township Committee of the Township of Plumsted, County of Ocean, State of New Jersey, as follows:

SECTION 1. - There is hereby created and established a Chapter 47A of the General Ordinances of the Township of Plumsted to be entitled " Professional Service Entities".

CHAPTER 47A

Preamble:

WHEREAS, pursuant to State law, certain professional service entities are exempt from public bidding requirements for the purpose of providing professional services or extraordinary unspecifiable services; and

WHEREAS, competitive public bidding has been interpreted by the Department of Community Affairs to require contracts be given to the lowest bidder for such services without regard to particular expertise or experience with respect to such services; and

WHEREAS, the State of New Jersey has enacted P.L.2004, c.19 N.J.S.A.19:44A-20.5 through 19.44A-20.12, effective January 1, 2006, mandating all municipalities to adhere to a specified system of awarding contracts to those who provide political contributions; and

WHEREAS, P.L. 2004 c. 19: N.J.S.A. 19:44a-20.5 through 19:44A-20.12 addresses the issues as set forth in this Preamble to restrict the award of certain contracts when political contributions are provided, in a constitutional, legal and practical manner; and

WHEREAS, the Township of Plumsted seeks to comply with State law, and to provide a method to award professional service contracts in a manner to safeguard the welfare of the citizens of the Township of Plumsted.

SECTION 2. Contributors to municipal committee of a political party; eligibility of municipal contracts.

- (a) Notwithstanding the provisions to any other law to the contrary. The Township of Plumsted, or any agency, or instrumentality thereof, shall not enter into a professional service contract having an anticipated value in excess of \$17,500 as determined in advance and certified in writing by the Township of Plumsted, agency, or instrumentality thereof, with a professional service business entity, except a professional service contract that is awarded pursuant to a fair and open public solicitation process, if during the preceding one-year period, that professional service business entity has made a contribution that is reportable by the recipient under P.L. 1973, c.83 (C.19:44A-1 et seq.)

to any municipal committee of a political party in that municipality if a member to any municipal committee of a political party is serving in any elective public office of that municipality when the contract is awarded or to any candidate committee of any person serving in an elective public office of that municipality when the contract is awarded; and

- (b) A professional service business entity that has entered into a professional service contract having an anticipated value in excess of \$17,500 with a municipality, or any agency or instrumentality thereof, except a professional service contract that is awarded pursuant to a fair and open process, shall not make such a contribution, reportable by the recipient under P.L. 1973 c. 83 (C. 19:44A-1 et seq.), to any municipal committee of a political party in that municipality if a member of that political party is serving in an elective public office of that municipality when the contract is awarded or to any candidate committee of any person serving in an elective public office of that municipality when the contract is awarded, during the term of that contract. No such committee shall accept such a contribution from a business entity during the term of its contract with the municipality. Nothing contained in this ordinance shall be construed as affecting the eligibility of any professional service entity to perform a public contract because that business entity made a contribution or solicitation as described in this ordinance prior to January 1, 2006. Professional service business entities shall be subject to the provisions of this ordinance as of January 1, 2006.

SECTION 3. Certain Contributions deemed as contributions by business entity

- (c) When a professional service business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the professional service entity. When a professional service business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.

SECTION 4. Definitions relative to certain campaign contributions

- (d) As used in this ordinance:

“professional service business entity” means any natural or legal person, business corporation,

professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or any other state or foreign jurisdiction to provide professional services as set forth in N.J.S. 40A:11-5(1)(a)(i);

familiarity with subject matter.

(iv) Cost consideration – including, but not limited to, historical costs for similar contracts, expertise involved and comparable costs for comparable public entities.”

(5) All submissions shall be kept on file during the term of the related professional service contract, and shall be public records after the opening of the submissions.

(6) In the event that compliance with part or all of the requirements of this ordinance is impracticable to a particular contract, the Township Committee may waive part or all of the requirements by a majority vote of the full committee in the appointing resolution, setting forth with specificity the reasons such waiver is required.

SECTION 5. Professional service entity to provide written certification, ELEC reports.

- (e) Prior to awarding any professional service contract, except a contract that is ~~not~~^{typ} awarded pursuant to a fair and open process, the municipality shall require the professional service entity subject to this ordinance to which the contract is to be awarded to provide a written certification that it has not made a contribution that would bar the award of a contract pursuant to this act.
- (f) A professional service entity shall have a continuing duty to report to Township of Plumsted any contributions that constitute a violation of this act that are made during the duration of a contract.

SECTION 6. Repayment of contribution.

- (g) If a professional service business entity makes or solicits a contribution that would cause it to be ineligible to receive a professional service contract or, in the case of a contribution made during the term of a professional service contract, that would constitute a violation of this ordinance, the professional service entity may request, in writing, that the recipient thereof repay the contribution and, if repayment is received within those 60 days of the date of when the contribution was made, the business entity would again be eligible to receive a contract or would no longer be in violation, as appropriate.

SECTION 7. Construction of Ordinance relative with public exigency.

- (h) Nothing contained in this ordinance shall be construed as prohibiting the awarding of a professional service contract when the public exigency requires the immediate delivery of goods performance of emergency services.

SECTION 8. Penalty

- (i) All Township of Plumsted agreements with professional service business entities shall provide that it shall be a material breach of the terms of the professional service contract for a professional service entity to violate, or to aide or abet a violation, of Section 1(a) through (d) of this ordinance or to knowingly conceal or misrepresent contributions given or received, or to make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.
- (j) Any professional service business entity who knowingly fails to reveal a contribution made in violation of this ordinance or who knowingly makes or solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future Plumsted Township professional service contracts for a period of three calendar years from the date of the violation.

SECTION 9. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 10. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 11. Since this ordinance is legislative in nature, there shall be the codification of same in the General Ordinance Book of the Township of Plumsted.

SECTION 12. This ordinance shall take effect after second reading and publication as required by law.

NAME	QUESNEL	FRANCIS	ROBERTS	PRZYWARA	DANCER
AYES	X 6/13/05 X 7/11/05	X 6/13/05 X 7/11/05	X 6/13/05 X 7/11/05	X 6/13/05 X 7/11/05	X 6/13/05 X 7/11/05
ABSTAIN					
NAYS					
ABSENT					

ORDINANCE NO. 2005-25

**AN ORDINANCE OF THE TOWNSHIP OF PLUMSTED,
COUNTY OF OCEAN, STATE OF NEW JERSEY,
AMENDING AND SUPPLEMENTING CHAPTER 47A,
SECTION 5(e) OF THE GENERAL ORDINANCES OF
THE TOWNSHIP OF PLUMSTED ENTITLED
"PROFESSIONAL SERVICES ENTITIES"**

BE IT RESOLVED by the Township Committee of the Township of Plumsted, County of Ocean, State of New Jersey, as follows:

SECTION 1. Chapter 47A, Section 5 entitled "Professional service entity to provide written certification, ELEC reports" is hereby amended to read as follows:

(e) Prior to awarding any professional service contract, except a contract that is awarded pursuant to a fair and open process, the municipality shall require the professional service entity subject to this ordinance to which the contract is to be awarded to provide a written certification that it has not made a contribution that would bar the award of a contract pursuant to this act.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. Since this ordinance is legislative in nature, there shall be the codification of same in the General Ordinance Book of the Township of Plumsted.

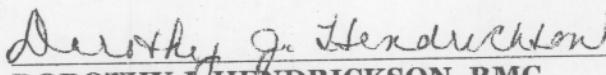
SECTION 5. This ordinance shall take effect after second reading and publication as required by law.

NAME	QUESNEL	FRANCIS	ROBERTS	PRZYWARA	DANCER
AYES	X 12/12/05 X 12/28/05	X 12/12/05		X 12/12/05 X 12/28/05	X 12/12/05 X 12/28/05
ABSTAIN					
NAYS					
ABSENT		X 12/28/05	X 12/12/05 X 12/28/05		

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Plumsted held on the 12th day of **DECEMBER, 2005** and will be considered for second reading and final passage at a regular meeting of the Township Committee to be held on the 28TH day of **DECEMBER, 2005** at 8:00 PM, at the Municipal Building, 121 Evergreen Road, New Egypt, NJ, at which time and place any person desiring to be heard upon the same will be given the opportunity to be so heard.

Members of the general public may obtain a copy of the ordinance without cost during the normal business hours from the Municipal Clerk's Office, 121 Evergreen Road, New Egypt, New Jersey.


DOROTHY J. HENDRICKSON, RMC
Municipal Clerk